IMT Nuremberg Archives

H – 158

International Court of Justice

H0158 - 0002

Official Transcript of the International Military Tribunal in the Matter of the United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany, on 17 June 1946, 1000-1700, Lord Justice Lawrence presiding.

MARSHAL: If it please the Tribunal, report is made that the defendants Fritsche and Speer are absent.

FRANZ VON PAPEN -- Continued

DIRECT EXAMINATION -- Resumed

DR. KUBUSCHOK (Counsel for defendant von Papen): I should like to ball the attention of the High Tribunal to the fact that we are concerned with certain incidents that took place in 1933. I shall have to devote some time to these incidents. The other things I can take care of briefly, so that sometime in the course of the day I shall conclude my examination in chief of the defendant von Papen.

BY DR. KUBUSCHOK:

Q Witness, on Friday you told the High Tribunal that at the well-known conversation with Hitler on 4 January 1933, which took place at the home of Schroeder, you did not speak about the formation of the cabinet which came into being on 30 January. You further say that up until 22 January you did not take part in any political conversation. However, the Prosecution asserts that at that time you influenced the Reich President to the effect that Hitler on 30 January was appointed Chancellor. Did you in that way influence Hindenburg?

A Before I comment on this, I should like to make a brief correction of something that happened Friday. Your Lordship asked me about the date of the evacuation of Jerusalem. At that time I said it was 1918. Your Lordship said 1917. Of course, Your Lordship is correct. It was 1917, and I beg your pardon.

To come to the question you just put before me, I did not have any such influence as you just mentioned on Reich President von Hindenburg, but even if I had, it would not have been decisive in the final decision taken by the Reich

H0158-0003

President. It would not have affected his decision in any way. The political situation, as I shall point out and we shall see, left the Reich President only the choice between a violation of the constitution or a cabinet by Hitler.

From the explanation which I made at the conclusion of the last session, from the historical incidents which took plage on 1 January, which may be seen from Document 9, page 27 through 31, you can see the following very, very clearly: During the entire month of January up until the 22, without my cooperation daily conferences or negotiations of the Reich Government took place with the various parties and conferences and negotiations among the parties themselves. All of these conferences were concerned with the formation of a majority government in the Reichstag. All of these negotiations were fruitless and in vain. I have explained that the Reich Chancellor, von Schleicher, tried by splitting the Party -- that was the National Socialist Party -- to bring about a majority government in the Reichstag. This division of the Party did not succeed, and this attempt failed on 20 January, and this fact was obvious to the world public opinion, for on that day the Reich Chancellor stated in the Reichstag that he was not at all interested in having a formation in the Reichstag.

DR. KUBUSCHOK: In this connection, I should like to refer to Document 9, which is to be found in Volume 1. I shall limit myself to the reading of a very few sentences from this document. Document 9, Page 27. The heading is:

"January 11, Reich Chancellor von Schleicher receives party leader Dingeldey."

On the next page, page 28, is proof that on 12 January the efforts to bring about a division of the Party had ceased, that the attempts had not been concluded. I shall quote from the beginning:

"At the same time it only now becomes known that the Reich President received Gregor Strasser last week for a conference. Strasser apparently intends to keep in the background for a while; only in the event of an unexpectedly quick conflict between Hitler and Schleicher's Reich cabinet would Strasser be likely to play a definite part.

H0158 - 0004

In the meantime, the Lippe elections took place. They gave another clear picture of the development of the National Socialists. I shall now quote from the center of the page, from the paragraph under 15 January:

"The electoral victory of the NSDAP not only surprisingly refutes the assertions of the opposition regarding the decline of the National Socialist movement, but is also a proof that the stagnation of the movement is entirely overcome, and that a new upward development of the movement has now begun."

Significant in bringing about a parliamentary majority are the negotiations with the Center Party, and I shall now refer to the last paragraph on page 28:

"Reich Chancellor von Schleicher receives Prelate Dr. Kaas, president of the Center Party, for a lengthy conference.

"In regard to the surmises concerning a reorganization of the Cabinet, the fiction is kept up in government circles that a Strasser-Hugenberg-Stegerwald combination is possible, despite the difficulties these plans undoubtedly met with. Privy Councillor Hugenberg is said to have made it a condition that an undisturbed activity within the Cabinet of at least one year must be guaranteed."

H0158 - 0005

On the next page, page 29, I would like to refer to the last ten lines or so, the statement of State Secretary Plank regarding the Aeltestenrat, that is, regarding the Committee of Elders of the Reichstag.

"In the conversations referred to, the National Socialists are to assume the lead and to attempt to realize the concentration of all groups from the National Socialists to the Center into a majority front which failed to materialize at the end of 1932. The leadership in these negotiations in which the Schleicher Cabinet is in no way involved, rests with Hitler. If, on the 31st of January, it comes to the summoning of the Reichstag and then to a conflict between Government and Reichstag, or also, on the other hand, if this conflict is superseded by other events or brought about by other events, the proclamation of the often-discussed state of emergency must increasingly be reckoned with. The Government would then dissolve the Reichstag and set the date for thenew elections in the early fall."

On page 30, I should like to refer you only to the first heading.

THEPRESIDENT: Dr. Kubuschok, the Tribunal doesn't think it necessary to read all this detail. It is evident from the headlines of these entries that there were political negotiations which led to the assumption of power by the National Socialist Party. Isn't that allthat you want to say?

DR. KUBUSCHOK: Yes. I should like to prove, however, Mr. President, that the formation of the government on the 30th of January was a forced situation and arose out of a difficult situation resulting from the political parliamentary incidents of the day. Therefore, it is important to explain what took place and whatattempts were made and failed, and what other possibilities existed.

THE PRESIDENT: What I mean is this. It appears, does it not, from the headlines of these entries, really? You can read the headlines without reading the details. For example, on page30, the entry on 21 January, and those other entries, give the substance of the matter.

DR. KUBUSCHOK: Very well. I quite agree, Mr. President, but if you permit me to refer to page 31 in this connection, dealing with the historical events leading to the overthrow of the cabinet of Schleicher on the 28th, I should like to read just part of thetext given there, just a brief extract. This was the decisive conversation between the Reich Chancellor

and the Reich President.

"The following is officially communicated regarding the decisive interview between the Reich Chancellor and the Reich President:

"Reich Chancellor von Schleicher submitted today his report regarding the situation to the Reich President, and declared that the present Reich Cabinet, in keeping with its character as a presidential government -- that is, the minority government--with the consent of the President, would only be in a position to represent its program and its point of view if the Reich President placed the dissolution order at its disposal. Reich President von Hindenburg declared that in view of the situation prevailing at the time, he could not accept this proposition. Reich Chancellor von Schleicher hereupon handed in the collective resignation of the Reich Cabinet, which the Reich President accepted, whilst entrusting the Cabinet with the duty of the provisional carrying on of official business."

As a proof for thefact that further possibilities of giving Hitler the parliamentary majority were not present, I should like to refer you to a brief extract on page 32:

"National Socialist sources again state categorically that for the National Socialist only a Hitler Government can be considered. Any other attempts towards a solution must be fought against with the utmost vigor. This, of course, applies particularly to a Papen Cabinet, but a Schacht Cabinet is also out of the question."

I should now like to refer to the next document, document 8. In this document we find the collective possibilities which were at hand for the formation of a new cabinet.

BY DR. KUBUSCHOK:

Q Witness, how did Reich Chancellor von Schleicher react to this political situation?

A After efforts had failed to split the National Socialist Party and to bring about a majority in the Reichstag, Reich Chancellor Schleicher asked the Reich President to give him dictatorial powers, and that meant, of course, a violation of the Constitution. That is, he wanted the very thing which I had proposed on the 1st of December, 1932, to the Reich President. He considered this the only way out of a perilous situation. At that time the

H0158-0007

Reich President had acquiesced in this proposal, but General von Schleicher had prevented the carrying out of my proposal.

Q A conversation took place on the 22nd of January, at the home of von Ribbentrop, at which, besides yourself, Goering, Meissner, and Oskar von Hindenburg participated. Did this discussion come about at your initiative, or who was responsible for this discussion?

A The incentive for this conversation on the 22nd came from Hitler himself. At Hitler's suggestion, von Ribbentrop placed his home at our disposal. The Reich President wished to find out what opinion Hitler had about this solution of the political crisis and what proposals he intended to make. Therefore, the conversation of the 22nd pivoted completely and exclusively on the demands of the National Socialists. However, we did not discuss the formation of a government as it originated on the 30th.

Q On the 28th of January, at noon, theReich President instructed you to start negotiations about the formation of a new government. What possibilities for the formation of a government resulted from the political situation? What possibilities did you see?

A The formation of a parliamentary majority government had been given up since the 20th of January, and had been considered quite impossible. Hitler wasnot willing to take over the leadership of such a government or to participate in such a government in any way.

Secondly, the further support of thePresidential Cabinet, through a declaration of a state of emergency and a postponement of the Reichstag, which was against the Constitution, hadbeen rejected by the President on the 23rd of the month. He had rejected these things, as we know, because von Schleicher had told him, in December, that a violation of the Constitution would mean civil war and a civil war would mean chaos, "because", he said, "with the army and with the police I am in no position to keep law and order in the country in a case of civil war."

Thirdly, since Hitler offered to participate in a minority cabinet with the support of the President, this was the only possibility which was left, and every faction was ready to participate. These people were willing to support me, even in 1932.

Q What were the instructions that the Reich president gave you?

A The instructions given me by von Hindenburg read as follows:

"Proposal for the formation of a government under the leadership of Hitler, with Hitler at the head, and with the utmost restriction of the influence of the National Socialists and of this government within the framework and background of the Constitution."

I should like to add that it was quite extraordinary for the Reich president to ask any one person to form a government which was not to be headed by this person himself. In the normal course of events, Hindenburg, of course, would have had to entrust Hitler himself with the formation of a government. However, he instructed me to form this new government, for he wished to minimize the influence of Hitler in his cabinet as far as possible.

Q And with whom did you negotiate?

A I negotiated with the leaders of the groups which were concerned with the formation of this government; that is, Rightist groups. By that I mean the leaders of the NSDAP, the German National People's Party, the "Steel Helmet Party" ("Stahlhelm"), and the German People's Party.

Q According to what point of view did you suggest to the Reich president the formation of the new cabinet?

A I made my suggestion along the lines of the only possibility which was present. That was a coalitation government with all of those groups involved participating.

THE PRESIDENT: Dr. Kubuschok, the Tribunal thinks that the defendant is going into far too much detail about this, because he has given his account of why the president sent for him and why he had anything to do with it. And that is the only matter that concerns him. After he has given that explanation, it should not be necessary to go into any further detail about it at all.

DR. KUBUSCHOK: Mr. President, the prosecution is accusing the defendant the very act of forming the Reich government was in itself a crime. He is trying to defend himself along the lines that he tried to bring about certain safeguarding measures and to minimize Hitler's influence.

THE PRESIDENT: Yes; but that is what I said. He has given that explanation. He does not need to add all sorts of details to support that explanation.

H0158-0008

I have written down, some moments ago, that the president asked him becaused he wished to minimize the influence of Hitler. Now he is going on with all sorts of details.

DR. KUBUSCHOK: Mr. President, he is trying to set forth now in what way he tried to minimize, limit and restrict Hitler's influence. This is a very important point, and he is trying to point out now just what safeguards he did take, that is, in the selection of the personalities involved in the new government, just so that Hitler's influence could not dominate.

This, it seems to me, is quite an important and significant point in replying to the prosecution's assertion.

THE PRESIDENT: The defendant can do it as shortly as possible, and is not to do it in too great detail. That is all the Tribunal wants.

DR. KUBUSCHOK: I shall be very bried, My Lord.

THE WITNESS: The measures for safeguarding the cabinet and the government which were brought into play at the request of the Reich president were the following: First of all, there was to be a very small number of National Socialist ministers in this new cabinet, only three out of eleven, including Hitler. Secondly, the decisive economic departments of this cabinet were to be placed in the hands of non-National Socialists. Thirdly, experts were to be put into the ministry posts as far as possible. Fourthly, there was to be a joint report of Reich Chancellor Hitler and Vice Chancellor von Papen to Hindenburg, so that the personal influence of Hitler

H0158 - 0009

would be minimized. Fifthly, I tried as a counter-balancing measure of the NSDAP a form of parliamentary block, to be an internal counter-balance against the political ramifications of the National Socialist Party.

BY DR. KUBUSCHOK :

Q Just how far did the Reich president von Hindenburg leave the selection of the men to himself ?

A The Reich president reserved the right to appoint the foreign minister and the Reichswehr minister. These two decisive posts were to be given to von Neurath, in whom the president had every confidence. Also, the Reich defense ministry was to be given to General von Blomberg, who also was in the confidence of the Reich president. Apart from that, in this cabinet there was the Reich minister of the interior, Frick, whose activity as minister of interior in the state of Thuringia had been quite important, and Minister-without-portfolio, and later Prussian minister of the interior, Goering. These were the men in the cabinet.

Q In this connection I should like to refer to Document Book 3, Documents Nos. 87 and 93. In these documents you will find an affidavit by the former minister, Dr. Alfred Hugenberg, and you will also find an interrogatory of Kurt Freiherr von Lersner.

THE PRESIDENT : What page in Book 3 did you say ?

DR. KUBUSCHOK : Pages 194-5. That is, Hugenberg's statement will be found on Pages 210-212.

BY DR. KUBUSCHOK :

Q The prosecution asserts that the government on the 30th of January took over the program of the NSDAP as its own program. Please comment on this, witness. What was the basis for the polic of the government which was established on the 30th of January ?

A The view held by the prosecution is completely incorrect. The program which we decided to follow was not the program of the Nazi party, but rather it was the program of coalition. And this

H0158 -0010

H0158 - 0011

may be seen very clearly and obviously from the statements which this government gave to the German people on the 1st of February. In order to fix this date and this matter in history, I should like to quote two excerpts from that appeal to the German people. It says :

" The national government will consider as its utmost and first task to restore the spiritual unity of our people. This government will take Christianity as the basis of its general moral structure. The family will be the determining unit in the state, and this government will protect the family.

" The large task of the reorganization of our economy will be met by this government with two large Four-Year Plans."

I should like to add just one sentence :

" This government fully realizes the sacred duty it has for the maintenance and the securing of peace, which is something that the world needs more than ever now."

H0158 - 0012

And, apart from that, this coalition program, this program which is made to look like the Nationalist program by the prosecution, this program contained the following points as well: No doing away with the federal aspect of the Reich or doing away with the various States in the Reich; the maintaining of the legislative system and the integrity of the Judges; the bringing about of a reform of the constitution, and to take the necessary steps in that direction; the safeguarding of the rights of the Christian churches; and, above all, the abolishing of the caste struggle through a solving of the economic problems and difficulties. That meant the restoration of a true people's community, Volksgemeinschaft.

Q For your part, did you do anything special so that the carrying through of your political thoughts would be established and safeguarded?

A I did everything within my power to carry out the thoughts which I had contributed to this political program, together with my political friends, and to carry those thoughts through and into active practice. At that time, the essential point to me seemed to be to create an internal counter-balance to National Socialism, and, therefore, I asked the leaders of the Rightist parties to give up the old party programs and to unite in a large common political organization with the purpose and aim of fighting for the principles which we would set up and had set up. However, the party leaders did not agree to this. Party limits were too strong. The only thing I succeeded in doing was the creation of a voting block of all these parties, and for this voting block I announced to the country in many, many speeches that program which, in actuality, was the coalition program.

DR. KUBUSCHOK: Now, I should like to refer you to a speech delivered by the witness on the 11th of February, which he held on behalf of the voting block and which may be found in Document 12, Pages 54 and 55. I should like to quote from Page 55, the center of the page, briefly: "Therefore, I consider the circumstance that the present Reich cabinet is not made up of one single party or movement but of various groups of the Nationalist movement, of free politicians and experts, not a disadvantage, but rather an advantage."

BY DR. KUBUSCHOK:

Q What specific questions were emphasized especially in the program

H0158-0013

of this voting block? You stated your views about this in various speeches.

DR. KUBUSCHOK: In order to save time, I should like to submit Document No. 10 to the High Tribunal.

Q Please tell us briefly what your attitude was and comment on the various questions. First of all, will you deal with the social problem?

A At the very zenith of my program, of course the social problem was found there, for the social problem was the one that dominated everything else. It was our task to make satisfied citizens out of the warring and belligerent workers who were engaged in the class struggle and to give the workers a right to live and the opportunity to have their own home. At that time I stated in this speech, which is contained in this document: "There will always be and must be differences in property. But it should not be that a small group possesses everything and the predominating mass of the people nothing at all." Again and again I emphasized the fact that if we would succeed in solving the social problem that we would, in that way, contribute immensely and make an eminent contribution to the satisfaction and to the pacification of Europe.

Q What was your program when it came to foreign political matters?

A Our platform in that regard was very simple. It started and exhausted itself in the wish to do away with the discrimination against the German people, discrimination against our sovereignty, and to do away with the discrimination in a peaceful way.

Q What was your platform on religious questions?

A From all of my speeches you can see that I wanted the regeneration of the German people in a Christian sense and that I considered this to be the keystone and the prerequisite of the solution of the social and all other problems which confronted us. Later on I shall return to this point.

DR. KUBUSCHOK: I should like to submit the document which I have already mentioned, Document No. 10, and I ask that the High Tribunal take judicial notice of this document. There seems to be a mistake in translation on Page 39, something which completely disturbs the sense of the document. The question of doing away with trade unions is an important one and later on will play a large role. I should like to read a brief statement on Page 39, about the middle of the page: "I recognize that the trade unions have done many

H0158 - 0014

things to imbue the working classes with professional honor and professional price. Many trade unions, for instance the union of office clerks, have accomplished marvels, though a real sudden change and definite work in this respect was in opposition to the ideaof class conflict. It was the socialist parties who prevented big scale consequences of the tendency of the trade unions to convert the working classes into a class. If the trade unions realize the signs of the times and keep off politics on a big scale, then they can become a big scale pillar of the new order."

BY DR. KUBUSCHOK:

Q Please comment on the outcome or the results of the elections on the 5th of March, 1933?

DR. KUBUSCHOK: In this case, I should like to refer to Document No. 98, in which I am presenting a diagram on the development of the election results in the years in question.

A This election is of extremely significant importance for later developments. First of all, I should like to state that this election was a really and truly free one, for it was held with the old functionaries of the Republic, and the fact that it was actually free is shown by the fact that the votes of the Communists and of the Social Democrats did not decrease in any way. I, personally, had counted on the fact that the NSDAP would be successful at the polls. In November of 1932 I had taken away 36 of their seats in the Reichstag, and I counted on the fact that they would make good this loss and regain these seats. I had also hoped that my own voting block would be very, very successful. I hoped that the people would realize the necessity of forming an internal counter-balance. However, this was not true.

THE PRESIDENT: Surely the figures are sufficient for us. We can form our own conclusions from the figures. We can see the figures. We don't need to have them all explained and commented on to us. There are very much more important things for us to consider.

BY DR. KUBUSCHOK:

Q. Please, Witness, describe the coming about of the Enabling Act of the 23rd of March 1933, the Ermaechtigungsgesetz.

A. The Enabling Act was born out of necessity, the necessity to set up a peaceful era for the carrying out of economic measures. First of all, there were negotiations with the Center Party which had taken place, so that we could bring about a period of truce in Parliament, a period of truce to last one year. However, these negotiations had been in vain and were unsuccessful. Therefore, it was necessary to have this law, a law which had some parallels in the past.

The Prosecution has used this document as proof for the existence of a conspirary. The Prosecution has accused me of this. Therefore, I should like to emphasize that I tried to exert a certain amount of control in that I tried to maintain the veto power of the Reichspresident. From the cabinet records of the 15th of March, you can see that the State Secretary Meissner did not consider the collaboration of the Reichspresident as imperative.

DR. KUBUSCHOK: I should like to refer to Document No. 25, which is identical with USA Exhibit 578. I should like to point out just what view von Papen held in this cabinet discussion, and I should also like to call your attention to the view held by State Secretary Meissner, State Secretary of the minority cabinet, with President Hindenburg and their excellent collaborators.

I should also like to refer to Document 23, and I am referring to Document 23 for this reason, that in the enumeration of the emergency decrees, we can see that in the state of emergency which obtained then, there was no possibility to govern with actual Reich Party laws, and the Enabling Act was a substitute for these emergency measures which repeatedly became necessary.

I should like to make a correction. The attitude taken by State Secretary Meissner is contained in Document 91, USA Exhibit 578.

BY DR. KUBUSCHOK:

Q. On the 21st of March 1933, there was a decree of amnesty which the Prosecution has referred to. Will you please comment.

A. The Prosecution is calling this law the sanction of political murder.

H0158-0015

H0158 - 0016

I should like to make the following comments.

This law was issued through an emergency measure of the Reichspresident. It was not issued by the Cabinet, and this was the most natural conclusion for a revolutionary period which had lasted seven weeks. There can be found in the past many, many parallels for this decree of amnesty and period of amnesty, for example, the law of the 21st of July 1922. The young German Republic, in its amnesty measures, is also concerned with murder.

DR. KUBUSCHOK: I should like to refer you to Document 28, page 99 of Volume 1. This contains the law of the 21st of July, 1922, which concluded the period of state unrest which obtained in the years 1920 and 1921.

I should also like to refer you to page 100 of this Document No. 28 which contains the Amnesty Act of 1932 which I have mentioned.

BY DR. KUBUSCHOK:

Q. On the 23rd of March, the law dealing with the special courts was issued. What can you say in that connection?

A. These special laws or special courts were not anything new. I, personally, as Chancellor of the Reich, on the 9th of August 1932, issued a law like that, and I was basing my act on a directive of the cabinet Bruening which was dated the 6th of October 1931. In revolutionary periods, punishable acts must be brought to speedy trial.

DR. KUBUSCHOK: I should like to point to Document 27, page 89 of Document Book No. 1, and I should like to call your attention especially to the introduction preceding paragraph 1, from which we see that these emergency measures were based on the Bruening Ordinance of 1931.

BY DR. KUBUSCHOK:

Q. On the first of April 1933, the Jewish boycott was carried through. This was a measure taken by the government. Did you participate in any way?

A. The assertion by Dr. Goebbels that the cabinet had acquiesced in this decree was completely wrong. On the contrary, at the suggestion of the cabinet, Hitler had made a public announcement of the 10th and 12th of March, a statement which my attorney will submit

H0158 - 0017

Bubley

The Prosecution, in referring to my telegram which was sent to New York on the 25th, calls it a shite lie of the greatest magnitude. In this case, I can only say that this assertion and accusation is completely unfounded. The public statements made by Hitler gave us, and had to give us, the assurance that such excesses could no longer take place. In that belief, and in good faith, I sent my telegram. It would have been inconceivable if

H0158 - 0018

on the 25th, I should send a telegram to New York --

THE PRESIDENT (Interposing): Dr. Kubuschok, I thought your question was: Did the defendant participate in these measures? I don't know what his answer is. He has been answering fro some minutes, but I don't know what the answer is.

The question was: Did you participate? And I don't know what he has answered.

THE WITNESS: I said the assertion by Goebbels that the Government agreed to this Jewish boycott was a lie.

THE PRESIDENT: Why not answer directly, did you or did you not participate?

THE WITNESS: We did not participate.

DR. KUBUSCHOK: I would like to refer to Document 33, page 113, a statement by Hitler on the 10th of March, and I should like to refer to the last two lines:

"The annoying of individuals, the obstruction of automobiles, or the disturbance of business life must absolutely be discontinued".

On the same page, page 113, the last sentence of the next to the last paragraph of the declaration of Hitler of the 12th of March:

"Whoever, from now on, attempts by individual action to bring disturbances into our administrative or business life, acts willingly against the national government".

THE PRESIDENT: Dr. Kubuschok, I didn't intend to prevent the defendant telling the Tribunal what he had done with reference to his telegram to the New York Times, but I wanted him in the first instance to answer your question.

Now, if he wants to add anything about what he telegraphed to the New York Times, let him do so.

BY DR. KUBUSCHOK:

Q. Will you please go back to this question regarding the New York Times.

H0158 - 0019

A. I can only add, my Lord, that it would have been quite inconceivable and inexplicable if, on the 25th of April, I had sent this telegram to New York with the knowledge that three or four days afterwards a new Jewish boycott would once more arise. That would have been quite nonsensical.

Apart from that, I should like to point out that on the same day Mr. von Neurath sent quite a similar wire to Cardinal O'Connel.

Q. Please give us a description of your attitude to the Jewish problem.

A. The view I held in regard to the Jewish problem can be briefly delineated. In my life I have always held the view which is expected by the Catholic Church of its members. My attitude to the question of race, in so far as it refers to National Socialist doctrine, I laid down in a speech in Gleiwitz in the year 1934, and I made my views known to the public and to the entire world. My attorney will submit that document.

A completely different question, however, apart from my basic attitude toward the Jewish problem, was the question of a certain estrangement or the overwhelming influence of the Jewish element in those spheres which influence the public opinion of the people, such as the press, literature, theater, movies, and especially the legal system.

To me there was no question but that this estrangement was unhealthy and that it would have to be corrected in some way, but as I said, we had nothing whatever to do with the racial question.

DR. KUBUSCHOK: I should like to refer to Document 16, page 68, in which will be found an extract from the speech made in the year 1934 at Gleiwitz. I quote -- and von Papen is speaking here:

"There are certainly no objections against race research and eugenics which endeavour to maintain the peculiarity of a nation as pure as possible, and at the same time to awaken a

H0158 - 0020

taste for nationality. This love for one's own race will never degenerate into hatred towards other nations and races. This is decisive and this eugenics must never be brought into conflict with Christianity, for race and Christianity are not contradictions but only difference orders. It was Christianity which first made of the German tribes a German nation and certainly it is not necessary first to create a new Nordic Germanic religion in order to be able to give a testimony to our nationalism."

H0158 - 0021

I should further like to refer you to document 29, which deals with the second topic that the defendant has just mentioned, that is on page 103, excerpt: dealing with the 4th of July, from the diary of Mr. Dodd.

I should also like to refer to document 35, page 115. There you shall find an article from the "Voelkischer Beobachter", dated 19 August, 1932. The heading of that article is:

"The Papen Government Inscribed the Protection of Jews on its Banner."

THE PRESIDENT: That was August, 1932? There is it?

DR. KUBUSCHOK: Document 35, page 115. It is the last page in the document book, my lord.

I should like to read the heading of this article found in the "Voelkischer Beobachter", dated 19 August, 1932.

"The Papen Government Inscribed the Protection of Jews on its Banner."

This report deals with the statement of Mr. Kareski from Berlin, as a representative of the Jewish People's Party. Kareski was the director of the Synagogue in Berlin. At that time he stated and I should like to quote the last paragraph of this article:

"Fortunately, he said, the constitution of the German Republic still protects the legal position of the Jews and the Papen Government has inscribed the protection of the Jews on its banner."

BY DR. KUBUSCHOK:

Q In the laws dealing with civil servants there are certain measures dealing with Jews and exceptions which apply. Did you do anything with reference to the fact that these exceptions, as they were originally planned, were much more extensive and restricted as set down in the law?

A May I just mention one thing? I believe you forgot to tell the High Tribunal about and to submit to them the document 33, a document itself with the German legal system.

Q We shall submit that document when we deal with that question.

A As far as this law of the 7th of April, 1933 is concerned dealing with civil servants, I agreed with this law only insofar as Jewish civil servants who were appointed after the year 1918 were concerned with this law and would fall under its regulations.

In this case we are concerned with a large scale immigration of elements

from the east, especially from Poland, a country which was anti-semitic at the time, an immigration from Poland into Germany, an immigration which started after the war.

I prevailed upon Hindenburg and succeeded that in no case could soldiers be concerned with this law or fall under it for I always held the view that a German, no matter what his antecedents, a German who had done his duty to his country in the war, should not be restricted in any way in his rights.

Q I should like to refer to document 33, page 115. It is a report emanating from the Ministry of Justice, from which we conclude that at the issuing of the civil servants' regulation there were more than three thousand Jews who were attorneys -- there were 3,515 Jews and as was just mentioned and because of the mitigating circumstances described by the witness, 735 ex-service men were excluded and also some others, people who had been admitted to the bar before 1918. In all 2,158 Jewish attorneys were admitted. There remained 2,158 Jewish attorneys whereas 523 had to resign from office.

Please give us your attitude as it applied to the civil service regulation.

A I believe that this was a completely normal happening. National Socialists, as one of the partners in the coalition government and since they controlled more than fifty per cent of the German vote, felt they should have an part in the filling of official posts.

I should like to point out that the National Socialists, in the propaganda which they had carried on for years, had warred on the so-called "Bonzentum" a system and we could not predict the fact that later on they would revert to the same mistake.

THE PRESIDENT: Would this be a convenient time to adjourn?

(A recess was taken.)

H0158-0022

H0158 - 0023

BY DR. KUBUSCHOK:

Q Just now we were talking about the origin of the professional civil servants' law. This law in its points which we have discussed was to a certain degree based on the trends of thoughts of the NSDAP. What was the reason that you in these points which were now limited made certain concessions?

A In those days I was convinced that with this professional civil servants' law, we were creating something basic. I did not anticipate nor could I guess that the Party would later, during later years, introduce new laws again and again and in that manner, the civil service would be totally destroyed.

Q What was your attitude towards the dissolving of the parties?

A Through the law giving special powers, the exclusion of parties came about as amatter of force. Hitler had demanded four years for the the reforms which we intended. The document 26 will show that I had requested Hitler to create a new basic state law and in his speech of the 23rd of March, Hitler did in fact promise that. In that speech, he was talking about a reformed constitution composed through the channels provided for in the constitution. That reform in my opinion, would have given us in a revolutionary way a new and better founded democratic and parliamentary reform. Apart from that, I must say that during the temporary application of the one-party system, I did not see any danger. We had excellent examples for it in other states. Take Turkey and Portugal, for instance, where this one-party system was functioning excellently. Finally, I should like to point out that in my speech at Marburg on the 17th of June 1934, I referred to that development and criticized it, saying that one could only regard it as an intermediary state which would have to be terminated by a reconstructed constitution.

Q What isyour view regarding the Reichstatthalter law of April 1933. Please, will you state your views regarding that question.

A This question, Gentlement of the Tribunal, has been brought up by the prosecution and they have accused me of twofold lack of truth or cheating. The prosecution have alleged with reference to the Federalist developments in Germany, that I had changed my mind from the point of view which I had represented in 1932 to another one which I had adopted in 1933; but, then, even if I had then changed my mind in that respect during that year, I still cannot see why the problem of a Federal or central government should be a crime

H0158-0024

within thisCharter. Apart from that, I haven't changed my mind at all. The things I said in 1932 were these: I recognized the advantages of a Federal system with respect to Germany and I hoped to maintain it but I always wished even in 1932, that there would be joint aims in the bigger political line in Germany; that for a Federal country was a matter of course, namely, that it would be run on unified principles and that was the only thing I was concerned with. That, also, i s the problem of my intervention in Prussia on the 20th of July. If you know the history of Germany, then you will know that Bismarck had overcome that same difficulty by combining the office of the Reichschancellor with the office of the Prussian Prime Minister. If, therefire, now, in 1933, we appointed governors in the countries, then that was merely meant to achieve it, that they were to take care of bringing about unified political command. Apart from that, the privileges of the countries remained without intervention. They had their own independent financial system and their own legislation, their own Ministry of Culture and their own parliaments.

Q With regard to this governors' law, I draw your attention to document 31, particularly page 111 of that document and I quote: "Only after the activity of the defendant von Papen in 1935, there had been a further Reich Governors' law which transferred the authority." Now, for what reasons did you on the 7th of April 1933 resign as Prime Minister of Prussia?

A A letter to Hitler, dated 7 April 1934, has been presented by the prosecution and the letter shows the reasons for my resignation. In Prussia—and that I had already stated — in Prussia I had already carried out the coordination of political aims in July. The Reich Governor law enabled the Reichschancellor either to be Prime Minister of Prussiahimself or to nominate a substitute. For that reason, my task in Prussia had been completed. Apart from that, I should like to draw your attention to the following point: The elections of March 5th had brought aboutin the Prussian Parliament, too, a strong majority for National Socialists.. The Prussian Parliament met and desired, of course that a National Socialist should become Prime Minister of Prussia and those are the reasons for which I resigned.

Q The prosecution have alleged that you as a prominent member of the Catholic church had been particularly suitable to consolidate the regime as far as the churches were concerned. We must discuss your attitude regarding this

H0158 - 0025

church political problem and I want you to describe the church political situation in Germany at that time?

A This problem, Gentlemen of the Tribunal, is, as far as I am concerned, the most serious point brought up by the prosecution -- the accusation that I as a Catholic am supposed to have cooperated to contribute to this conspiracy against world peace. I should like to have permission, therefore, that with a few brief words I may refer to my attitude in the church question. The Catholics in Germany had organized themselves within the central political party. Before 1918, the central party had always established the balance between the left and the right political wings. After the war, that picture altered entirely.

H0158 - 0026

We now find the Center Party mostly in a coalition with the Left. In Prussia, this state of affairs was maintained during all the years from 1918 until 1932 and became a permanent institution. Undeniably the Center Party during the years after the collapse had manymerits regarding the maintenance of the life of the state, but the coalition with the Social Democrats, and in particular as far as the church-political sector was concerned -- had made it impossible for the Center Party to collaborate with the Right. Regarding the important political and personnel political questions, the Center Party there had advocated a policy of compromise, which in turn was achieved by making concessions regarding church politics. That this state of affairs --

THE PRESIDENT: Dr. Kubuschok, to what is this all relevant?

DR. KUBUSCHOK: The Prosecution have alleged that Papen, as a prominent Catholic, used that position to consolidate the Nazi regime, that he had worked for two masters, and that this was becoming particularly marked and was throwing light on his character.

The defendant is trying to explain with the statement that he is making now the details of his actions in the church-political sector, the attitude he adopted, and since he was a member of the Center Part , he wants to prove that, as he left it, it w s necessary for him to underline the split which developed between him and the leadership of the party.

THE PRESIDENT: Why is it necessary to go into this extreme detail? Surely the thing that he wants to show is that he was not assisting the Nazi Party. He was undoubtedly a Catholic, and he wants to show that he was not assisting the Nazi Party. He does not want to go into all of these details about Catholic influences and his part in Catholic influences.

DR. KUBUSCHOK: Mr. President, I have already finished, but, Mr. President, quite generally, with reference to the case of Papen, I should like to say that the difficulties are due to the fact that we are trying to prove that right from the beginning he adhered to principles. It is essential in this connection that the conditions at a certain period should be elucidated, and we are not very far from the point where we c n leave the internal political circumstances. The other subjects that I shall come to will be very much briefer, but I do think that for the sake of completeness and for the

H0158 - 0027

purpose of painting the picture of the personality of the defendant, certain details will have to be gone into, in which connection we shall be anxious to dispense with any avoidable and superfluous details.

THE PRESIDENT: Dr. Kubuschok, we are perfectly well aware that the case of every one of these twenty-one defendants is different from the others. We are perfectly aware of that, but what we desire is that their cases should be put forward fairly but without unnecessary and burdensome detail. They hope that you will try to confine the defendant to the really essential matters Will you go on?

DR. KUBUSCHOK: Very well, Mr. President. We shall do our best.

BY DR. KUBUSCHOK:

Q Please, will you continue?

A Perhaps I may conclude this chapter by saying that my opposition within the party, in favor of using conservative forces, got me the reputation of being a bad Catholic. Something that a non-German judge can not possibly know is that in those years a Catholic who was not a member of the Center Party but who belonged to the Right wing parties was regarded as a bad and inferior Catholic, and this is the thing that I always fought against.

DR. KUBUSCHOK: In his official statement of 4 June 1932, von Papen referred to the fact that the entire public life in Germany in those days had to be regarded as the outcome of the previous coalition policy in Prussia. In that connection I refer you to Document 1, Page 2, and I quote the last part of the first long paragraph:

"The disintegration of atheistic-marxist thoughts have already too deeply invaded all the cultural fields of public life, because the Christian forces of the State were all too easily ready for compromises. The purity of public life cannot be maintained or re-established by way of compromises for the sake of parity. A clear decision must be made as to what forces are willing to help reconstruct the new Germany on the basis of the unchangeable principles of the Christian ideology."

I also refer to Document No. 37 on Page 119, where in a speech at Munich on 1 March 1933 the witness refers to the points of view which he has just now mentioned.

H0158 - 0028

BY DR. KUBUSCHOK:

Q Mr. Witness, did you think that the position of the churches was secure in the new government, and what did you do in that respect?

A First of all, I called on Hitler to make a clear-cut statement with regard to this problem, and he did, and he did it in a positive manner. In the preamble to my speeches held in those days, there is the remark that it was the first and most important task that there should be corrections of the Nazi program with reference to the religious problem, because that was a prerequisite for a united front of the two Christian confessions in that coalition.

Secondly, I attempted to secure the church-political situation, to safeguard it, by giving it a certain foreign political meaning through the Concordat.

DR. KUBUSCHOK: In this connection, I refer to Document 37 on page 119 and 120. It contains extracts from several speeches delivered by the witness, and I draw your attention to Volume 1, page 38, and I shall begin about one-third from the beginning of page 119. It was a speech made at Dortmund in February 1933. The defendant von Papen said --

THE PRESIDENT: We have that document before us.

DR. KUBUSCHOK: Document 37, page 119.

THE PRESIDENT: Well, I have got that, yes. All I was suggesting was that it was sufficient to refer us to the document. As a matter of fact, you have already got to the time when he resigned his post as Prime Minister of Prussia in 1934, and now you are going back to 1933.

H0158 - 0029

DR. KUBUSCHOK: He retired, in Prussia, in 1933. At any rate, I shall refer to the speeches which are contained in that document, and I should like to draw your attention to page 120.

THE PRESIDENT: Did he resign in 1933 or 1934?

DR. KUBUSCHOK: 1933.

I draw your attention to page 120, which is a proclamation of the Reich Government of the 1st of February, 1933.

BY DR. KUBUSCHOK:

Q. How was that agreement achieved?

A. I shall reiterate. I regarded a Christian basis for the Reich as an absolute necessity with which to safeguard it. For that reason, I suggested to Hitler, in April of 1933, that the rights of the churches should be safeguarded in a concordate; this concordate with reference to the Protestant Churches. Although there was a certain amount of objection in the Party, Hitler agreed, and thus the concordat was concluded.

The prosecution have adopted the point of view that this concordat was supposed to have been a manouver of deception. Perhaps I may point out in this connection, the fact that those men with whom I signed this concordat--namely, Secretary of State Pacelli, who is now the reigning Pope, as well as Monseigneur Kaas, who was the Chairman of the Central Party for a number of years--had known Germany personally for thirteen years. If these two men were agreeable to concluding a concordat, then one could certainly not say that this was a manouver of deception.

DR. KUBUSCHOK: I refer now to document 39, at page 121.

Document 40, on page 122, contains a quotation which I should like to read. After the conclusion of the concordat, Hitler published a decree, and that decree is worded as follows--I refer to the middle of page 122: "I therefore order:

"1. The dissolution of all Catholic organizations which are recognized by the present treaty and the dissolution of which took place without directions from the government is to be rescinded at once.

H0158 – 0030

"2. Any measures of coercion against members of the clergy and other leaders of these Catholic organizations are to cease. A renewal of such measures is prohibited in the future, and will be punished according to prevailing laws".

That quotation I read to prove that only later was there a change of mind on Hitler's part, presumably due to the influence coming from his immediate entourage.

I drawyour attention to the telegram of von Papen, addressed to the Bishop of Trier, which appears on the same page.

The affidavit--document 43--on page 127, refers to the same problem. It is the affidavit of Baron von Twickel, and it is to take the place of an affidavit which was meant to be presented and which was to have been signed by the late Cardinal von Galen. The question had already been discussed with vonGalen, but before he had a chance to put this in writing, he died. The person who discussed the question with him, Freiherr von Twickel, has now stated the details in his affidavit, document 43, on page 127.

I particularly draw your attention to document 52, on page 139. This is an affirmation, in lieu of oath, from the Benedictine Abbey at Gruessau, signed by Friedrich Albert Schmitt, who has been the religious advisor to the defendant for a number of years. In the last but one paragraph on page 139, he discusses the question of the concordat, and states as follows:

"Herr von Papen was deeply upset by the illegal attitude adopted by the German Government, which appeared soon after the signing of the concordat. He also discussed with me, in detail, his great worries in this respect, as well as pondering ways and means of fighting against these violations. I can also testify, from my own personal experience, that he personally worked actively in the interests of the church for the loyal observance of the concordat".

H0158-0031

BY DR. KUBUSCHOK:

Q. Mr. Witness, did you adopt any measures, apart from the concordat, to see that your church political points of view were taken care of?

A. Yes. On the 15th of June, 1933, I created an organization in Berlin which we called the "Cross and Eagle". A little later I initiated a cooperative of Catholic Germans. In these two organizations there were to be, outside of political parties, the Catholic forces which were meant to collect therein. This working cooperative of Catholic Germans had the particular task of collecting complaints and reporting them to men, so that I could adopt the necessary measures.

H0158 - 0032

Q The Prosecution are accusing you of the fact that, by dissilving the working cooperative of Catholic Germans, you yourself had violated the concordat. What can you say about that?

A Yes, and not only that, but the period which followed the concordat has been described by the Prosecution as "The characteristic development of the church policy of a conspirator, and Papen's participation in it."

The accusation raised by the Prosecution, with reference to the sabotaging of the concordat by my own person, is a tremendous accusation. It is connected with the dissilution of thqt working cooperative which I have just mentioned. The documents show that this working cooperative had already been aimed at on the occasion of the Roehm revolt, on the 30th of June. 1934, and that its later dissolution, through me, was merely a formal affair.

This working cooperative had no connection whatsoever with the concordat. This was a political, working cooperative which never enjoyed the protection of the concordat.

DR. KUBUSCHOK: I wish to refer to document number 45, on page 129. It is an exchange of telgrams between Hitler and Hindenburg regarding the pacifying action for the Protestant Church.

The question of that working cooperative of Catholic Germans is referred to in document 74, on pages 130 to 132. This document contains an affidavit-- I beg your pardon; that has been erroneously quoted. I refer to document 47, at page 130, which is an affidavit from the Manager of the Industrial Association of Catholic Germans, Roderich Count Thun. It deals with the dissilution at page 131, and I quote the second paragraph:

H0158 - 0033

"On the 30th of June, 1934, the Office of the Industrial Association of Catholic Germans was occupied by the Gestapo. The files were confiscated and taken away. I myself was arrested."

The fact that through these measures the dissolution became nothing other than a declaration is referred to in a statement in the last paragraph of Page 131:

"Even after my release which was effected after a time, the confiscated files were not returned. In view of the attitude taken up by the Party offices, a revival of or any further activity on the part of the organization could not be considered. Furthermore, any further practical activity of the 'Industrial Association of Catholic Germans' could no longer be possible, as the only person who could undertake the current interventions, Herr von Papen, having moved to Vienna, was out of the picture. The only question which remained for the management was how to terminate its activities officially. In so doing, it had to be taken into consideration that in the event of an official cumpulsory dissolution, the large number of Catholics, who had distinguished themselves through their work for the organization, would accordingly be persecuted. In order to prevent this, the dissolution was pronounced by the management of the Industrial Association of Catholic Germans."

Then I quote the last sentence:

"In order to do everything possible to maintain Catholic interests, they did not neglect to point out again in this pronouncement that official authorities, above all, Hitler himself, had solemnly vowed to protect Christian and ecclesiastical interests."

THE PRESIDENT: Will you remind me of the date when the defendant von Papen moved to Vienna?

DR. KUBUSCHOK: On the 15th of August, 1934, he went to Vienna. He was appointed at the end of July, 1934.

BY DR. KUBUSCHOK:

Q In the summer of 1934 it became obvious that the Party was sabotaging the Concordates, and that Hitler's assurances were not kept. How can you explain Hitler's behavior in this respect?

A I believe that in those days Hitler himself had been quite willing to

H0158 -0034

keep his religious assurances, but that the radical elements in his party did not wish it, and that most of all it was due to Goebbels' and Bormann's influence, who again and again would urge Hitler to violate the interests of the church political sector. I often and repeatedly spoke to Hitler and objected to these violations. And in my speech at Marburg I branded it publicly. I stated at Marburg: "How can we fulfill our historic mission in Europe if we ourselves erase ourselves from the list of Christian peoples?"

DR. KUBUSCHOK: I draw your attention to Document No. 85 on Page 169, and beg you to take judicial notice of it. It is an affidavit of Dr. Glasebock, the former leader of the Front of Conservative Catholics in Germany.

BY DR. KUBUSCHOK:

Q Mr. Witness, on the 14th of March, 1937, Pope Pious XI spoke about his anxiety and objected solemnly to the violations of this Concordate. The prosecution said that if you had meant to be serious with the assurances contained in that concordate, then you would know, at that point, have handed in your official resignation. What do you have to say to that?

A What could I have improved by taking such action? Apart from the Austrian matters, I had no longer any political influnce on Hitler. And to leave my post in Austria was prohibited me by my own conviction thatin critical times particularly asthey were in 1937, it was an ardent necessity for me to remain at work.

Later on, we shall see that, from the developments. But apart from that, may I say that if the Prosecution assumes that I on the basis of that certainly perfectly justified protest from the Pope, should have left my post, then I must ask, what did thechurch do? They did not recall the Papal Nuncius. And Bishop Berning, who was looking afterthe Catholic interests in the state council, did not leave that state council, either. It was all perfectly true, because wehad all hoped at the time that there would be interior changes.

Q I draw your attention to Document 48 on Page 133. The document has already been submitted as USA Exhibit 356. It is page 133 in my document book. It is the allocution of His Holiness Pope Pius XII to the Sacred College on the 2nd of June, 1945, and I quote:

H0158 -0035

".....It must, however, be recognized that the Concordate, in the years that followed, brought some advantages, or at least preverted worse evils. In fact, in spite of all the violations to which it was subjected, it gave Catholics a juridical basis for their defense, a stronghold behind which to shield themselves in their opposition--aslong as this was possible -- to the ever growing campaign of religious persecution."

The practical results of the Concordate appear in Document 49, on Page 134 of my document book. It has already been presented as USA Exhibit 685. It is a letter from the Deputy of the Fuehrer to the Reich Minister for Culture, and it deals with the dissolution of the theological faculties of the universities. I quote the last paragraph of that letter:

"In this case, as you have likewise pointed out in your letter, the clause of the Concordat and the Church Treaties are to be taken into consideration. In the case of certain faculties which are not mentioned by a specific clause in the Concordat and Church Treaties, as for example, Munich and a few others a removal can be begun without further ado. This is equally true of the theological faculties in Austria ("Ostmark") Vienna and Graz . . .".

H0158 - 0036

Q. During subsequent years public arguments about church political questions were almost entirely suppressed, since the Catholic press, in violation of the Concordate, and even Catholic pamphlets were prohibited. What did you do against these actions?

A. It appeared necessary to me, after the Catholic press had been completely throttled, that something should be done to revive public discussion regarding the fight against the churches. I had talked about this question very often to the Bishop, Dr. Hudal, who was a very outstanding clergyman in Rome. My defense will present to the Tribunal the book written by this Bishop in 1936. This book, apart from severe criticism of the anti-religious tendencies, contains an objective appreciation of the positive social thoughts of National Socialism, and it is all the more remarkable because, in 1936, such high authorities of the church were making yet one more attempt to establish some coordination between the thoughts of the church and the healthy doctrines of National Socialism.

Q. In what respect do you consider that book of importance with regard to the accusation raised against you by the prosecution?

A. I consider it to be very relevant for the following reason: The prosecution were making it easy for themselves in that under recognition of the criminal target of National Socialism they were blaming entirely the initial years of the development, and all those who, for clear-cut motives, were attempting to give the movement a creative character, are being accused by the prosecution of being criminals; but here in 1936, a clergyman of high rank, arises and attempts, on his own initiative, to bring about an improvement of the conditions. Today we know that the aims were not achieved and that a world crumbled, but is it right that because of that millions of Germans should be accused of crimes when they tried to do something good in those days?

DR. KUBUSCHOK: I refer you to extracts from this book of the Bishop, which is Document No. 36, page 116. Would you please take judicial notice of the passages I have referred to with reference to the question which the witness has just touched upon, namely, the position of high ranking clergymen.

H0158 - 0037

With reference to that especially, I refer you to Document No. 50, page 136, which is an appeal to the Catholic bishops on behalf of Cardinal Innitzer.

BY DR. KUBUSCHOK:

Q. Mr. Witness, as you have stated, it had the aim of getting Hitler to alter his ways which he had adopted. Did Hitler do that?

A. First of all Hitler appeared to me to be extremely impressed by this book, but then later, the anti-Christian tendencies among his followers gained control and they convinced him that it would be the greatest possible danger if such a book were allowed to appear in Germany. This book had been printed in Austria and therefore a permit had to be issued in connection with it. All I could achieve was a permit for two thousand copies, which were supposed to be sent to leading party members to enable them to study the problem.

Q. Did you ascertain that the foreign policy of the Reich was in keeping with the principles which were stated when the government was formed?

A. Yes. During the time when I was a member of the cabinet it was conducted on the principles which had been designed. I want to mention the friendship treaty with Poland, which was concluded at the time and which was considerable protection for peace; this treaty was concluded by Hitler although it was most unpopulat because of the problem of the Corridor. I would like to mention the Four-Power Pact concluded in 1933, which emphasized the Locarno Treaty and the Kellogg Pact; and I want to mention Mr. Eden's visit in January, 1934, when we submitted proposals to him for demilitarization of the SA and the SS, all of which shows that by these means we were trying to do away wi th the discrimination which Germany had suffered from by peaceful means. In my opinion, it was a catasthropic mistake made by the major powers that during that phase Germany was not met half way, because radicalism could have been steered by means of such a friendly gesture.

Q. On the 14th of October, 1933, Germany left the Disarmament Conference. Was this a departure from that original policy which you have just explained?

A. The leaving of the Disarmament Conference was not in any way meant to be a departure from our political principles. The leaving of that Disarmament Conference happened because the promised equality which we had been assured of

H0158 - 0038

in '32 had once more been cancelled.

THE PRESIDENT: Dr. Kubuschok, would you tell me, is the defendant saying that the principles adopted in 1933 were contained in any document or not?

DR. KUBUSCHOK: There is a Proclamation of the Reich Government dated the 30th of January, 1933 -- I beg your pardon, the 1st of February, 1933. In that proclamation the principles of the policy of the new cabinet are contained. They are supplemented by the statement of the Reich government dated the 12th of March, -- I beg your pardon, -- the 23rd of March, 1933, and that proclamation then became the empowering law.

THE PRESIDENT: Will you give me the reference to the first document that you mentioned?

DR. KUBUSCHOK: If I may, I shall inform you, Mr. President, after the recess.

BY DR. KUBUSCHOK:

Q. What were the reasons -- what was your attitude with reference to Germany's leaving of the League of Nations?

A. The departure from the League of Nations was a question about which you could have many different points of view. I myself was in favor of remaining in the League of Nations. I remember that before the day when Hitler decided upon that step, I personally traveled to Munich to try to persuade him to remain a member of the League. It was my point of view that it would be more advantageous for us if we had remained in the League of Nations, because there we had many good connections, even from Stresemann's time. If one were to leave the League, however, then it might be a tactical question insofar as one might hope that direct negotiations with the major powers could be more promising. Apart from that, Herr von Neurath's discussion with Ambassador Bullitt, which is Document L 150, will show where Herr von Neurath says that a proposal on Germany's part existed to rejoin a reformed, reorganized League of Nations.

DR. KUBUSCHOK: I refer you to Lersner's interrogatory, Document 93, and I come to question No. 5, where the witness speaks about the journey of the defendant von Papen to Munich. This is Page 213, Document No. 93.

H0158 - 0039

And now, Mr. President, I shall come to a more or less lengthy question, and I was wondering whether this would be a suitable moment to adjourn.

THE PRESIDENT: We will adjourn at this time.

(A recess was taken until 1400 hours.)

H0158 - 0040

AFTERNOON SESSION

(The hearing reconvened at 1410 hours, 17 June 1946)

FRANZ VON PAPEN - Resumed

DIRECT EXAMINATION - Continued

DR. KUBUSCHOK: Before the recess, I referred to the proclamation by the Government issued on 1-3-33, to be found in Document 12, page 53. This is but a short extract, and I shall submit the entire speech. The proclamation of the 23rd of March 1933 may be found in Document 12, pages 56 to 58, and has been submitted, but only in the form of an extract, under USA-563.

BY DR. KUBUSCHOK:

Q On the second of November 1933, in a speech made as Essen, you spoke on the occasion of the imminent plebescite and dealt with leaving the League of Nations, and you approved the policy set forth and represented by the government. The Prosecution drew conclusions which were unfavorable to you. What were the reasons which motivated you to make that speech at that time?

A Our leaving the League of Nations was an extraordinarily important foreign political decision for us. We wished to emphasize to the world that thid departure from the League of Nations was not to be construed as a change in our foreign politicalmethods. Therefore, Hindenburg and Hitler issued solemn appeals and emphasized that the German people, by a plebescite, would decide on this question, and it would mean that our renunciation of the League of Nations would render service to our equality of rights, and service to peace.

DR. KUBUSCHOK: I should like to refer to Document 60, page 160, 161, and 162, and pages 147 to 152, to be found in my document book. These are the statements made by Hitler and by Hindenburg and the Reich Government. The topic was a change in method, not a change in our objective attitude.

BY DR. KUBUSCHOK:

Q At that time you were Reichs Commissar for the organization of the Saar Region. What was the policy that you followed in connection with the Saar Region?

H0158 - 0041

A As far as the Saar question was concerned, I always worked on the basis of a friendly understanding with France, to this effect, that the Saar problem be regularized or put in order without a plebescite. The fact that we did not want a plebescite was not to be construed egotistically, for this plebescite was assured Germany, and my proposal was rather a sacrifice which I willingly brought forward for understanding.

At the same time, I proposed that for the return of the Saar mines France receive compensation in the amount of 900 million francs, and I should like to repeat that even after we left the League of Nations, my plenipotentiary for Saar questions, Freiherr von Lersner, always was in touch with the League of Nations organs and negotiated on the principle of a friendly and amiable understanding.

In the summer of 1934, my plenipotentiary negotiated with the French foreign minister on this question of the Saar.

DR. KUBUSCHOK: I should like to refer to document 59, page 145. This document contains a proclamation issued by the defendant concerning his attitude on the Saar problem. Freiherr von Lersner, in his interrogatory which is document 93, page 212, in reply to question 3 defined his attitude regarding the Saar question.

H0158 - 0042

Q. Were there any signs to the effect that after leaving the League of Nations this generally considered peaceful policy was just a policy of expediency and that in the long run an aggressive policy was being considered or would be considered ?

A. Not at all. Our leaving the League of Nations was for us purely and simply a change in our methods. At that time we were interested in having direct negotiations with the major powers. The fact that we were following and pursuing a policy of peace, that fact I emphasized repeatedly in many public addresses. In this connection I should like to refer to document 56, which will be submitted by my attorney.

Q. Document 56, page 144, contains a speech by the Defendant at Kottbus. The date of that speech is the 21 of January, 1934, and I ask the High Tribunal to take judicial notice of this document.

Did you know about rearmament measures which might have led to the supposition that an aggressive policy was being contemplated ?

A. It seems to me that all the proceedings which have taken place in this courtroom itself is clearly evidence that the actual rearmament took place much later. If Hitler , in fact, in the year '33 or '34 did take rearmament measures then they were measures which he personally and the Armament Minister and the Luftwaffe Minister discussed. In any event I never concerned myself with them and I was never a part of any of these discussions.

Apart from that it has already been ascertained here that this Reich Defense Committee, which has been mentioned very frequently here, in the years '33 and '34 was purely and simply a committee of experts under the direction and chairmanship of a Lt. Colonel.

Q. Just a short time ago you mentioned the safeguards which were taken by you at the time the Hitler Government was formed, the safeguards which you took, so that the influence of the Party would be minimized.

How did the position of Hitler and the influence of the N.S.D.A.P. expert themselves in the course of that year, 1933 and the beginning of '34 ?

A. Gradually there developed a relationship of confidence between Hitler and Hindenburg.

H0158 - 0043

This led to the practice of a common or joint report, a procedure which we agreed upon at that time. A very decisive factor in this development was the influence that Hitler exerted on the Reichswehrminister Blomberg. Even at that time, that is in 1933 Hitler tried to exert a decisive influence on the army. He wanted to have the then General von Hammerstein removed and wanted him replaced by General von Reichenau, who was considered a friend of the Party. At that time I persuaded the Reich President not to grant Hitler's wish in this connection and suggested to him that he take General von Fritsch instead.

Another reason for this development was the integration of the "Steelhelmet", that is the rightist conservative unit into the N.S.D.A.P.

Then there were new cabinet members who were party members. These cabinet posts were filled with party members. Hugenberg, the leader of the conservative right was not in the cabinet and the two ministries, Economy and Agriculture, the two important ministries which he had had, went to the National Socialists.

A factor of decisive psychological influence, as I have already mentioned, was the election results of the 5th of March. Now in the government of all the states there were National Socialist majorities. From these local governments there was constant pressure exerted on Hitler. Hitler based himself on party dynamics and was supported thereby in ever increasing degrees and thus from a partner in a rightist coalition set-up he turned into an autocrat without compromise, that is a complete autocrat.

Q. I should like to refer to the affidavit of the former Minister Hugenberg, document 88, page 196 to 198, in the document book. I should further like to refer you to document 13, page 59 to 61 in the document book, which is an affidavit deposed by Dr. Conrad Josten.

In your position as vice-chancellor -- what was your position based upon ?

A. In my position as vice-chancellor it was intended that I would be the deputy of the Reichschancellor but I was not to have any department. It developed very quickly that my position as Vice-Chancellor was quite out of the question since Hitler dealt with each and every question himself.

The fact that I did not have a department weakened my position as well as the fact that my position was based only upon the confidence Hindenburg had in me, a confidence which decreased as the importance of Hitler increased. There was a direct ratio there.

Q. How was the position of Hitler in the cabinet reconciled with the provisions of the constitution ?

A. In Article 56 of the constitution there is defined the position of the Chancellor in the cabinet. In this article it says that the Reichschancellor will lay down the general guiding principles of policy and will carry the responsibility for measures put before the Reichstag. If the policy of a department minister is not in accord with the directives set down by the Reichschancellor the decision is not to be taken by the cabinet or a majority thereof, but the Chancellor himself will decide on this point.

Under Article 58 of the constitution it says that the Reichschancellor cannot be outvoted by the cabinet when there is a difference as to questions involving the policy that he has laid down.

DR. KUBUSCHOK: In connection with this question I should like to refer you to a question which has been incorrectly set down. I should like to refer you to the leading commentary by Gerhard Anschuetz, document 22, page 80 and 81

H0158-0044

H0158 -0045

I should like to refer to page 81, Figure (4) under Article 56. This statement is clearly set forth and says that when it comes to difference of opinion as to the application of the basic principles of the policy, the Reich Chancellor alone will decide and that when it comes to basic problems, there is no voting and no majority decision.

BY DR. KUBUSCHOK:

Q What were the conclusions which you believed you had to draw from the developments?

A In the middle of the year 1934 the internal tension in Germany increased very obviously and visibly. The situation arose that the concessions which we as partners of the coalition had made did not lead to a final internal satisfaction but that the Party considered them only the beginning of a new revolutionary movement. This was quite obviously a digression from the pact which had been concluded on 30 January. My many objections in the Cabinet were in vain and fruitless.

Then, since there was no possibility to force the Reich Chancellor to change his policy in the Cabinet, which was something we told him, there was only way. That was the matter of a resignation or the way to public opinion. If I had resigned, then I could no longer speak. Therefore, I decided to speak now and to speak publicly, and I decided to turn to the German people on basic principles.

If, as the Prosecution asserts, I had been an opportunist, then I would have remained silent, would have remained in office, or would have taken another office, but now I decided to go before the public and to shoulder all the possibilities and the consequences which might accrue therefrom.

Q On 17 June 1934 you gave your speech at Marburg. What did you wish to accomplish with this speech?

A In this speech I discussed all of these questions and put them to the decision of Hitler which were essential to the maintenance of a reasonable policy in Germany. In this speech I turned against the demands of a certain group or party for a revolutionary, national monopoly, and I turned against the coercion and the suppression of others. I turned against the anti-Christian demands, and I turned against the suppression of critical opinions. I turned

H0158 - 0046

against the suppression and the regimentation of the spirit, and I turned against the violations of fundamental rights and against inequality before the law, and I turned against the Byzantium principles which were dominent and rampant in the Party.

It was quite clear that if things succeeded and if in one point this ring could be broken, in just once instance, then the system would have been forced to order. For instance, we would have restored freedom of speech and freedom of the spirit.

DR. KUBUSCHOK: This speech, the significance of which has been stressed by the Prosecution, may be found in Document 11, page 40.

First of all, I should like to refer to the fact that in the English text there is a misprint. The date is not 7 July, as is shown in the translation, but the date is actually 17 June.

Because of the basic significance of the speech, which is unique in German history since 1933 for its critical nature, I should like to quote several extracts from it. I should like to have you turn to page 41, and I shall begin in about the center of this page:

"We know that rumors and whispers must be brought out from the dark where they have taken refuge. An open and manly discussion serves the German people better than, for instance, the airtight condition of a press of which the Minister for Propaganda has stated that it 'no longer has a face.' This deficiency no doubt exists. The purpose of the press should be to inform the government where deficiencies have crept in, where corruption has settled down, where grave errors have been committed, where unfit men sit in the wrong places, where sins are committed against the spirit of the German Revolution. An anonymous or secret information service, however well organized it may be, can never be a substitute for this task of the press. For a newspaper editor is under the responsibility of his conscience and the law. On the other hand, anonymous news sources are uncontrollable and liable to the danger of byzantinism. When therefore the natural organs of public opinion do not bring enough light into the mysterious darkness which at present seems to have fallen upon the German public, then the statesman must stand up and call

H0158 - 0047

the things by their right names."

Then on page 42, just a little beyond the center of the page:

"It is the historical truth that the necessity for a fundamental change of course was recognized and urged by those who shunned the path of revolution by a mass-party. A claim for a revolutionary or nationalist monopoly by a certain group, therefore, seems to be overweening, quite apart from the fact that such a claim prejudices the unity of the people."

And now page 43, a sentence from approximately the center of the page:

"Not all of life can be organized without becoming mechanized. The state is organization; life is growth."

And on Page 45, just a little beyond the center of the page:

"The dominance of a single party replacing the majority party system, which justifiably has disappeared, appears to me historically as a transitional stage, justified only as long as the safeguarding of the new political change demands it and only until the new process of personnel selection begins to function."

As to the religious question, the defendant states his view on page 46 about the center of the page:

"But one should not mistake the religious state which is based upon an active belief in God for a secular state in which earthly values replace such belief and are given religious honors."

Then, about five lines following:

"Certainly, the outward respect for religious belief is an improvement compared to the disrespectful attitude produced by a degenerate nationalism. But we should not forget that real religion meansto be bound to God and not to those substitutes such as have been introduced into the consciousness of nations especially by the materialistic conception of history of Karl Marx. If wide circles of people, out of the very viewpoint of state totality and the complete amalgamation of the nation, demand a uniform religious foundation, they should not forget that we ought to be happy to have such a foundation in the Christian faith."

H0158 - 0048

Then, the third last line on this same page:

"It is my conviction that the Christian doctrine is the absolute religious form of all occidental thinking and that, with the reawakening of religious forces, the German people also will be permeated anew by the Christian spirit, a spirit the profundity of which is almost forgotten by a humanity that has lived through the nineteenth century. A struggle is coming for the decision as to whether the new Reich of the Germans shall be Christian or will be lost in sectarianism and half-religious materialism".

Then, on page 9, which corresponds to page 48, just a little beyond the center of the page:

"But once a revolution is terminated, the government only represents the entire people and never is it the component of individuals groups".

Then, a little further down, about ten lines from the bottom:

"Therefore, it will not do to dispose of the intellect wi with the catchword of 'intellectualism'. Deficient or elementary intellects cannot yet justify a war on intellectualism. And if today we complain sometimes about the 150 percent Nazis, then we mean those landless intellectuals without a foundation, people who would like to deny the right to exist to scientists of world fame just because they are not Party members".

Then, on the next page--page49--on the first line, it says:

"One should not make the objection that spiritual people lack the vitality necessary for the leaders of a people. True spirit is so vital that it sacrifices itself for its conviction. The mistaking of brutality for vitality would reveal a misunderstanding of force which would be dangerous to a people."

H0158-0049

" They oppose equality before the law, which they criticize as liberal degeneration, whereas in reality it is the prerequisite for any fair judgement.

"These people suppress that foundation of the state which always, not only in liberal times, was called justice. Their attacks are directed against the security and freedom of the private sphere of life which the German has won in centuries of hardest struggle".

In the next paragraph he speaks against Byzantinism; and the second sentence reads:

"Great men are not made by propaganda, but rather, they gain eminence by their acts and are recognized by history. Byzantinism cannot deceptively disregard these laws".

He deals with education in the next paragraph, and I should like to begin my reading with the second sentence:

"But one should not disregard the biological and psychological limits of education. Coercion ends at the will of self-suppression of the true personality. Reactions to coercion are dangerous. As an old soldier I know that rigid discipline must be supplemented by certain liberties. A good soldier who submitted joyfully to unconditional obedience counted the days of his service, because the need for freedom is rooted in human nature. The application of military discipline to the whole life of a people must remain within the limits which are not contrary to human nature".

Then on the next page--page 50--I should like to read something from the last paragraph, beginning with the second sentence:

"The movement must come to a standstill at some time; a solid structure must once begin to arise, which is held together by an unprejudiced administration of justice and ab[illegible] governmental power. By constant dynamics nothing can be achieved. Germany dare not become a passage into the unknown, of which no one knows where it will stop".

As my last quotation, I shall read the first paragraph on the following page:

As my last quotation, I shall read the first paragraph on the following page:

"The Government is well informed on all those things, all the selfishness, lack of character, want of truth, unchivalrous conduct and arrogance which would like to spread out under the cover of the German revolution. It is also aware that the rich store of confidence bestowed upon it by the German people is threatened. If one wants close connection and association among the people, one must not underestimate their good sense, must return their confidence, and not try to hold them constantly in tutelage. The German people know their situation is serious. The people feel economic distress; they recognize well the deficiencies of certain laws born from emergency; they are sensitive to force and injustice; they smile at clumsy attempts to deceive them by false optimism. No organization and no propaganda, however good it may be, will in the long run, be able to preserve confidence.

"I therefore looked at the wave of propaganda against the so-called foolish critics, and I looked at it differently from the way others looked at it. Not by provocation, especially of the youth, not by threats against helpless parts of the people, but only by confident discussion with the people can confidence and readiness for cooperation be promoted. The people know that heavy sacrifices are expected from them. They will bear them and follow the Fuehrer in.

H0158 – 0050

unflinching loyalty. If they are allowed to have their part in the planning and working, if not every word of criticism is taken for ill will, and if despairing patriots are not marked as enemies of the state."

DR. DR. KUBUSCHOK:

Q Witness, what were the consequences of your Marburg speech?

A This speech of mine was prohibited at the suggestion of Propaganda Minister Goebbels. Only two papers could feature it, but that sufficed so that attention was called to it both at home and abroad.

When I heard of the prohibition order issued by the Propaganda Minister I went to the Reich Chancellor at once and said that I wished to submit my resignation. I told him: "It is quite impossible that the Vice Chancellor of the Government cannot speak; I have nothing left to do except to take my leave." Hitler said: "That was a mistake on the part of the Propaganda Minister. I shall speak with him and have him rescind this decree which prohibits your speech from being published."

In that way he stalled me along for several days. However, I know that even at that time he lied to me because, as co-defendant Funk has stated, he was instructed by Hitler to go to Hindenburg and tell Hindenburg that the Vice Chancellor had taken a stand against the Cabinet and Hitler, and would have to be dismissed.

If the witness Giesvius testified here in this court to the effect that Mr. von Papen was silent, that he should have stirred up the diplomats instead, then I should like to point out that from Mr. Dodd's diary we can see very, very clearly that the outside world was very well informed about this, my last appeal.

DR. KUBUSCHOK: I should like to refer you to the last remark made by the witness, to be found in Document 17, on pages 71 and 72, the diary of Ambassador Dodd. I beg your pardon, in the English text it is at pages 69 and 70. I should like to quote from the second paragraph, and I should like to start with the first line:

"There is now great excitement all over Germany." The Marburg speech had been referred to. "All old and intellectual Germans are highly pleased."

Then, under the date of the 21st of June, he reports that the speech had been cabled to the New York Times and that the papers in London and in Paris were featuring the "von Papen episode", as he called the Marburg speech.

I should also like to have you refer to the beginning of Page 72, at the top of the page. In the English text, that is Page 70.

As far as the measures of the government against the Marburg Speech and its dissemination were concerned, I should like to have you refer to document 15, Page 66, which is an affidavit by Westphalen, which shows that even the possession of a copy of the speech would be sufficient to have disciplinary action taken against any official who was in possession of a copy.

BY DR. KUBUSCHOK :

Q Witness, in the meantime, the events of the 30th of June took place. How did these incidents concern you personally ?

A On the 30th of June, in the morning, I received a telephone call from Minister Goering, with the request that I come to see him to discuss matters with him. I went to Goering, and he told me that there had been a revolution which had broken out in the Reich, a revolution of the SA, and that Hitler was in Munich so that he could quell this uprising there, and that he, Goering, was charged with the task of restoring law and order in Berlin.

Mr. Goering then asked me, in the interests of my own safety, as he put it, to return to my flat and to remain there. I protested quite vehemently against this demand of his; but Mr. Goering was insistent.

While I was going to my flat, I went first of all to my office, the office of the Vice-Chancellor. On arriving there, I found my office occupied by the SS, and I was permitted only to enter my own office, so that I could pick up my files.

I continued my journey and went home to my flat. There I found a strong formation of SS units. The telephone was blocked; the radio was turned off. I was completely cut off from any and all contact with the outside world for a matter of three whole days.

Q What measures were taken against your co-workers ?

A I learned about the measures taken against my co-workers

H0158 - 0052

only on the 3rd of July, after I had regained my freedom once more. At that time, I learned that my press expert, Mr. von Bose, had been shot in his office, and I further learned that two of my male secretaries, Mr. von Schuschki and one other gentleman, had been taken to a concentration camp.

A few days later, I learned of the death of my friend and colleague, a private co-worker of mine, Mr. Edgar Gunk.

Q Did you then try to inform the Reich president ?

A I finally succeeded, on the 3rd day of my arrest, in establishing a telephone connection with Goering. I demanded that I be set free at once. Mr. Goering apologized and said that it was a mistake that I had been arrested and kept under arrest for this long period of time.

I then went immediately to the Reich chancellery. There I met Hitler, who was about to start a cabinet session. I asked him to step into the next room so that I could speak with him. I did not want to enter this cabinet meeting, I said to him : "The [illegible] things which were done to a member of your government are so incredible and fantastic that I can give you only one answer; and that is the repeating of my request for the acceptance of my resignation. I want it immediately."

I said to him, Mr. Hitler, there is no explanation possible, and there is no apology for this incident, I demand a research into the facts and an investigation of those incidents that concerned my co-workers. I further demand of you a publication of my resignation, immediately".

Hitler told me, after he saw that he could not persuade me to remain in the government, that he could not make the matter of my resignation public because the agitation and excitement among the German people was too great, and that he could only make my resignation public in, say, three of four weeks.

When I left Hitler, I tried personally and through one of my secretaries to get in touch with von Hindenburg. That attempt, however, failed. I must say that Mr. von Hindenburg was in Neudeck in East Prussian at that time; and my secretary, who travelled to

H0158 - 0053

East Prussia, learned that it was quite impossible to reach von Hindenburg.

Everything had been blocked. My own telephone calls did not go through. I went to my friend, the Chief of the Wehrmacht , General von Fritsch, and said to him, "Why doesn't the Wehrmacht intervene ? Why doesn't it do something ? The Wehrmacht is the only thing that can keep order in the country, and the only factor of peace in the country".

After General von Schleicher and his wife were murdered - and other officers, in my opinion - it would have been quite proper for the Wehrmacht itself to try to restore order in this situation.

Mr. von Fritsch said to me, " I can ask questions only when I have a command from Field Marshal von Hindenburg in my hands." But Hindenburg was not accessible to us. The other side had obviously advised him about the complete legality of events as they had taken place, which Hitler declared in the Reichstag to be legal.

I did not attend that session of the Reichstag, either, as the witness Gisevius testified. And during the time that elapsed between the 30th. of June and my appointment in Austria, I did not participate in one single government act.

I should also like to mention that during these days I asked the Reich chancellor to give me the body of my friend,Bose. We knew that the Gestapo had cremated the bodies of the other victims.

THE PRESIDENT : I believe it would be a good time to recess now.

(A recess was taken)

H0158 - 0054

THE MARSHAL: May it please the Tribunal, the defendant Hess is not present in this session.

BY DR. KUBUSCHOK:

Q. Please, will you continue.

A. In finishing off the first question, I was merely going to remark that I succeeded in having the body of my friend Bose properly buried and that on that occasion at his grave, I spoke words during which I emphasized that one day the same justice which had been the cause of that murder would be reestablished.

DR. KUBUSCHOK: As far as this is concerned, I draw your attention to document No. 14 on page 62 and page 63. It is an affidavit of Maria Rose, who for years had been the private secretary of the witness. This is on page 63 and there she refers to the funeral services of Bose which we just discussed. I further refer to document No. 19 on pages 77 and 78. It is an affidavit from Schaffgotsch who is particularly referring in detail to the attempts of the witness to go and visit Neudeck and President Hindenburg. This last one was document No. 19 on pages 77 and 78.

BY DR. KUBUSCHOK:

Q. Mr. Witness, at that time you were offered the position to the Vatican, the post, I mean, of Ambassador to the Holy City. Please, will you tell us what the circumstances were?

A. It is true that Hitler tried to continue to tie me to him and that for about eight days after the incidents which I had described, he sent Secretary of State Lammers to me, who asked me on his behalf whether I was prepared to accept the position of Ambassador to the Vatican. Of course, I refused, and I am merely mentioning it here because a few weeks later I accepted this post in Vienna for an entirely different reason and to prove this to prove that I was not interested just in obtaining a job, I refused Hitler's request bluntly at the time.

DR. KUBUSCHOK: I refer you to document No. 18, on pages 75 and 76 of the document book. It is an affidavit from Marth von Papen, the wife of the witness, who is describing the visit Lammers paid them.

H0158 - 0055

H0158 - 0056

THE PRESIDENTL My document book appears to go from 74 to 79.

DR. KUBUSCHOK: That is quite true. There are these different languages. One is in German and then it is in French -- pages 75 and 76.

THE PRESIDENT: Yes, but I haven't got 75, 76, 77, or 78.

DR. KUBUSCHOK: Are they lacking? I shall supplement it, Mr. President.

THE PRESIDENT. Very well.

DR. KUBUSCHOK: It is page 73 in the English document book; pages 73 and 74 in the English. With reference to the subject which we had just dealt with, namely participation in the Reichstag meeting of July 13, I refer you to document No. 21, on page 79. It is an extract from the newspaper "Voelkischer Beobachter," referring to the Reichstag meeting and the names of the ministers present are listed therein and the name of the witness Papen is not amongst them.

BY DR. KUBUSCHOK:

Q. When did Hitler approach you, asking you to go to Vienna as Extraordinary Ambassador?

A. It was on the day of the murder of Dr. Dollfuss, on the 25th of July 1934.

THE PRESIDENT: Can you remind me, Dr. Kubuschok, whether any question was put to the witness Lammers about this offcer?

DR. KUBUSCHOK: Yes, the question was put to witness Lammers. When he was examined, he was asked about it.

THE PRESIDENT: What did he say?

DR. KUBUSCHOK: He has said that von Papen had refused.

THE PRESIDENT: Go on.

THE WITNESS: On the 25th of July, the day of the murder of Dollfuss, I was called by Hitler in the middle of the night. He asked me to go to Vienna at once as his Ambassador. I told him "Where do you get this peculiar idea from" and he informed me of Dollfuss' murder which at that time had not been known to me, and he said "It is absolutely essential that somebody should take over the affairs there at once, someone who is acquainted with the atmosphere" and I replied that I could not possibly decide on the telephone to

H0158 - 0057

take such a step, whereupon he asked me to come to a conference to Beyreuth at once.

Q. And how did these negotiations in Beyreuth proceed? Did you make conditions for taking over that office?

A. The conferences in Beyreuth took the turn that Hitler put it to me that I was the only person available who could reestablish the situation in Austria because Hitler knew, of course, from numerous protests raised by me in the cabinet against Austria's treatment, which attitude I had regarding that problem. He also knew that I was a friend of the murdered Dr. Dollfuss and that I was acquainted with von Schuschnigg. I made my conditions and they were the immediate recalling of the Party Gauleiter who, by Hitler's order, was in Austria at the time, his name being Habicht. Hitler was of the opinion that it he were to do this, then this would be a confession of guilt.

BY THE PRESIDENT:

Q. Gauleiter of where?

A. Habicht?

Q. I thought you said that was his name. I wanted to know what Gau he was the Gauleiter of.

A. Perhaps "Gauleiter" is the wrong word. He had been sent to Austria by Hitler in order to be liaison man and influence the business, the affairs of the Austrian National Socialists.

BY DR. KUBUSCHOK:

Q. Mr. Witness, perhaps you ought to point out that his title was "Landesleiter," county leader, which was the equivalent of the Gauleiter in Germany.

A. He was Landesleiter, county leader. It was the title for people who were running the affairs of the Party abroad. Hitler replied to me that if he were to recall this man, then this would look like a confession of his guilt, of his participation in Dollfuss' murder. I replied that the question of guilt on the part of the Party in Germany or its organization in its entirety was something of which the whole world was convinced in any case and

H0158 - 0058

that as far as I was concerned, it was only important that from now on these connections should be cut. I further demanded an assurance from Hitler in writing that the German-Austrian policy of the future -- something which had vulgarly been described as the "policy of the Anschluss" upt to then -- should move on a purely evolutionary level in the future; that is to say, any forcible measures and aggression should be refrained from and thereupon Hitler ordered the recalling of this man Habicht immediately and furthermore, with reference to the second question, he gave me a written assurance. Finally, I explained that I should be prepared to take over the pacifying action in Austria but only until ordinary relations, ordinary friendship had been reestablished. This meant and was the cause that later in Austria I had the title of Ambassador with a special mission.

H0158 - 0059

Q Mr. Witness, we have heard of your inner political break with Hitler after the speech at Marburg and we have heard about your resignation from the cabinet and your actions on the 30th of June. I should now like to ask you to explain to us the reasons which were decisive for you to accept that post in Austria in spite of the events which have been described?

A The decision to go to Austria has been made the subject of a special accusation by the prosecution. If you are to understand this decision of mine then you must know German history and one must know that the Austrian problem was the central problem of Germany all together. Dr. Seyss-Inquart has spoken at length about this problem. I can, therefore, be very brief, and I only need to add that, on Germany's part also, the achievement of German unity, for which we had fought during three centuries, was considered the most significant and important target of our national policy. Now, with the 30th of June, the coalition, for the reasons which I had given on the 30th of January, had collapsed. It was proved in history that, inner politically speaking, my intentions and my aims had failed. Now, with Dollfuss' murder, the danger existed that Germany would now suffer bankruptcy even in that one great foreign political aim. All this was written in my soul when I considered that serious decision which should fulfill Hitler's request. Had it been a man of the party whom he put there, then it was quite clear that all hope was lost. If it were to be a diplomat from the foreign office whom he sent there, then it could be assumed that that official would have had no personal influence of his own upon Hitler. If, therefore, one was to save the situation, then it had to be someone who was at least in the position to influence Hitler and someone who, like I, was independent and had a political life of his own. Today, just as I was then, I am fully aware of the fact that many of my friends could not understand this step of mine and that they interpreted it to be lack of character. But it is my point of view that there was a decision which anyone would have to make without consideration or understanding or lack of it and only before his own conscience. My conscience told me that I would have to do everything to bring back order, at least as far as this one questionewas concerned.

DR. KUBUSCHOK: With reference to the general subject of Austria,

H0158 - 0060

I call your attention mainly to the documents which have been submitted, but to supplement them, I should like to only refer to Document 64, on Page 157, and Document 65, on Page 158; also, to Document No. 81, on Page 178. The last named document has already been presented in connection with the case of Seyss-Inquart, and it refers to the views of State Chancellor Dr. Renner in connection with the Anschluss. I only want to quote the last four lines on Page 179: "As a Social Democrat, and therefore a representative of the last decision of the nation, and as the last Chancellor of the Austro-German Republic and the former president of its peace delegation, I shall vote with 'yes'." The reason why I have placed the document in that particular position is because I want to support the testimony of the defendant, who considered that the Austro-German question, from both points of view, was a problem of great importance, and it is best expressed by the fact that in a very difficult situation even this leading statesman, Dr. Renner, was confessing that he was in favor of Austro-German friendship.

BY DR. KUBUSCHOK:

Q Mr. Witness, on the 26th of July Hitler wrote a letter to you which confirmed your appointment as Extraordinary Ambassador to Berlin. That letter has been mentioned by the prosecution. What is the explanation of the contents of this letter?

A The contents of this letter can be explained very easily. If I were to have a chance to reestablish normal and friendly relations, if I were to have a chance to create a proper position myself with regard to the Austrian government, then after the events of the 30th of June there had to be a public statement of confidence. In that letter Hitler w s to certify that my mission was one of pacification and that he would distance himself from his methods of terror. That is stated in that letter, and if the prosecution say that this letter was a "masterpiece of deceit", then I find that quite impossible to understand.

Q Mr. Messersmith, in his affidavit, alleges -- this letter being PS 2385 -- that from Vienna you had pursued a policy of aggression with reference to the southeastern states of Europe and he is quoting as your own personal statement something which you are supposed to have said when he

H0158 - 0061

visited you, the following words: "that southeast Europe as far as Turkey would be the hinterland of Germany and it has become my mission to include it into the Reich. Austria is the first country in this program." Have you made any such statement?

A In the autumn of '34 I took up my position in Vienna. One of the first colleagues whom I met was Mr. Messersmith. Never at any time have I received the task to pursue such a policy as is described in Mr. Messersmith's affidavit, and never at any time have I stated any such thing to Mr. Messersmith.

DR. KUBUSCHOK: In this connection, I refer to the interrogatory submitted to Horthy. It is Document 760, Pages 172 and 173.

THE PRESIDENT: Dr. Kubuschok, before you turn to the Messersmith affidavit, you were speaking, or the defendant was speaking of some letter. Is that letter a document which is before us?

DR. KUBUSCHOK: Yes, the prosecution have already presented that letter. It is the letter written on the occasion of the appointment of the defendant and it is No. 2799 PS.

H0158 - 0062

SIR DAVID MAXWELL FYFE: My Lord, if your Lordship has the British document book No.11, it is page 37.

THE PRESIDENT: Thank you.

DR. KUBUSCHOK: Just now the witness was speaking about statement No. PS-2385, Messersmith's affidavit. The same question, namely the question of the return visit Mr. Messersmith paid to Papen, is dealt with in Messersmith's further affidavit, PS-1760.

Will you please be good enough to note that the wording of the statement referring to the influence of Germany on the South-eastern European states differs considerably in Messersmith's two affidavits.

The question put before that produced the answer that in 2385, Messersmith claims that Papen had said that he had been designated to fulfill the task of including Southeastern Europe into the Reich. In comparison to that, in PS-1760, the statement is very differently worded, because there Mr. Messersmith says that Papen said on that occasion that he had been told that the whole of Southeastern Europe, upto the Turkish border, should become Germany's natural hinterland and be regarded as such, and that the German economic control should be facilitated in that entire territory through his work. Once there is the inclusion, and then there is mention of economic control.

With the latter much less strongly worded affidavit, 1760, I ask the witness whether at that time he had made such a statement, namely that the wole of Southeastern Europe, and as far as the Turkish border, was Germany's natural hinterland and that it had become his mission to facilitate Germany's economic control in that entire territory on Germany's behalf.

BY DR. KUBUSCHOK:

Q Did you make such a statement?

A My real statement to Mr. Messersmith is probably --

SIR DAVID MAXWELL FYFE(Interposing): My Lord, I don't know whether it would be useful for the Tribunal to have the two references, the two passages. The passage in 2385-PS your Lordships will find in Document Book 11-A, that is, the second document book, at page 24 at the bottom of the page. The reference in 1760-PS is in Document Book 11, page 22, about one-third down the page, and then it goes on to the next third of the page.

H0158 - 0063

A (Continuing): My actual remark to Mr. Messersmith ispossibly not too far from the latter quotation given by my defense counsel. The difference between the two statements made by Mr. Messersmith becomes quite clear. It is perfectly possible that we discussed the Southeast Europe question, and it is perfectly thinkable that I had pointed out to him that the economic and political questions of that Southeastern area were of importance for Germany's and Austria's policy, and of particularly considerable significance. The extension of our commerce towards the Balkans was a perfectly legitimate target.

I reported to Berlin currently about everything which I learned in Vienna regarding the policy of these countries in the southeastern areas because naturally that was one of the tasks of the Ambassador to Vienna. But over and above that, during my entire work in Vienna, I did nothing which might in any way tally with Mr. Messersmith's statement in this connection.

Apart from that, may I say that it would be quite foolish and contrary to the most primitive rules of diplomacy if I, during one first conference, had spoken to an unknown, strange ambassador, making such revelations to him. That would have been sensational and it would have been certain that the next day the Austrian government and the whole world would have known.

DR. KUBUSCHOK: With reference to this question, I referyou to Erbach's interrogatory, Document No. 96, on page 238, and I refer to questions 8 and 9 which deal with this subject. That is No. 96, page 238. In the English text it is page 232. I am dealing with questions 8 and 9 of the interrogatory.

THE WITNESS: Perhaps, my Lord, I might add that the Prosecution are in possession of all my reports from these Viennese days, and that these reports must show it if I had pursued such a task.

BY DR. KUBUSCHOK:

Q Did you ever, during your time in Vienna, talk about dividing Czechoslovakia with the Hungarian or Polish government, because Mr. Messersmith makes such a statement.

A No, I never did. The embassy in Prague was exclusively responsible for the Reich's policy in Czechoslovakia.

H0158 - 0064

DR. KUBUSCHOK: I refer to the Horthy interrogatory, Document No. 76, which has already been presented. I also refer to Document 68, page 162. It is a report from von Papen, dated the 31st of August 1935, and addressed to Hitler.

BY DR. KUBUSCHOK:

Q Mr. Messersmith alleges, in the affidavit, which was mentioned, that you had stated during this conferencethat you had come to Austria to undermine and weaken the Austrian government.

Did you make any such statement?

A May I say something on principle with reference to this affidavit. If I am to express myself diplomatically, then I shall have to describe it as most astonishing. In this affidavit, Mr. Messersmith states that on the occasion of my first visit he received me with an icy-cold attitude. That is perfectly correct. It was quite well known to me that Mr. Messersmith was the keenest opponent of the Nazi system.

It must have an all the more astonishing effect, therefore, in one now reads that during that second visit I am supposed to have opened my heart and my inner thoughts to Mr. Messersmith.

This figure of speech which is quoted, that I had come to undermine and weaken the Austrian Government, was, of course, not used because such a statement, took would of course have been communicated to the Austrian government by Mr. Messersmith at once.

My entire pacification would have been made impossible from the beginning through it.

May I refer to the statements made by the Austrian Foreign Minister Schmidt in connection with how many of such activities of mine were entirely unkown.

Q. I also refer to Glaise-Horstenau's testimony in this connection.

Further, Mr. Messersmith says that you had said to him during this discussion that you were using your good reputation as a good Catholic in connection with certain Austrian clergymen, for instance, Cardinal Innitzer. He goes on to say that even without any scruples you had used your wife's reputation, who was a devout Catholic, for the same political ends.

Please, will you speak about this statement made by Mr. Messersmith?

A. Of all the accusations raised against me, this is the one that hurt most deeply. I can understand that you can criticize the policy pursued by a diplomat and how it is interpreted, but I cannot understand that one can accuse somebody of using his own religious conviction for dirty, political, commercial purposes. And I can understand it even less, and I find that it lacks taste that someone states that I even used the religious beliefs of my wife for such purposes.

Perhaps I can leave it to the judgement of this High Tribunal.

Q. Mr. Messersmith in his affidavit, refers to a document, the author of which, however, he fails to mention. This document had been shown to Foreign Minister Berger-Waldeneck in 1939, and although the contents of your conference with Hitler, Schacht and von Neurath on the occasion of your visit to Berlin had yet to become known for the next two years, the avoidance of intervention into Austria's inner political affairs was supposed to have been mentioned and finally Dr. Schacht is supposed to have promised two hundred thousand

H0158 – 0065

marks monthly for the support of the National Socialists in Austria.

What do you have to say to that statement of Dr. Messersmith?

A. According to Mr. Messersmith's statement, this is quite obviously the report of an agent which the Austrian Foreign Minister had received with reference to my returning to Berlin. The contents of that report are mostly wrong. The incorrectness with regard to the passage referring to Dr. Schacht has already been emphasized passionately by Dr. Schacht, but in that report there is something which is true.

At that time there was a so-called fund of support in Austria, which was managed by a certain Lanyott. It has already been testified in this courtroom that this support fund for the women and children of Austrian National Socialists who had emigrated into Germany existed with the knowledge of the Austrian Government and police. But I had neither requested Mr. Schacht to make available official funds for this support fund, nor have I paid any such finance over myself.

Quite obviously this money originated from Party sources in Germany.

DR. KUBUSCHOK: In connection therewith, I refer to Glaise-Horstenau's testimony before this Tribunal when he said that the Austrian Government knew of the Lanyott support fund.

BY DR. KUBUSCHOK:

Q. Mr. Messersmith believes that from information received from the Austrian Foreign Minister Berger-Waldenegk, he can permit himself to re-produce the following statement made by you in 1935.

"Yes, now you have your French and English friends and your independence can be maintained a little longer".

Had you said anything like that?

A. Such a statement would not only have been extremely foolish diplomatically, but impossible, because it would have meant an end of any diplomatic activity. In no case could the

H0158 - 0066

cooperation, which Mr. Messersmith states went on for years, or as he calls it "the policy of deceit"-- in no case could that be tallied with such an open admission to the effect that I would only allow Austrian independence to remain intact for a brief period.

Q. Mr. Messersmith goes on to say in his affidavit, that you had publicly assured that you wished to get rid of certain members of the Austrian Government, among them Chancellor Schuschnigg. Is that true?

A. The contrary is true. I never aimed at removing Chancellor Schuschnigg. On the contrary, it was my aim to see that he should have confidence in my policy and a policy of understanding. I know von Schuschnigg as an upright Austrian patriot

H0158 – 0067

but also as a man who did not by any means deny his German ties. In spite of many pertinent differences of opinion this German trend, German streak of his always presented an excellent basis for our collaboration and I could only add that if a diplomat desires that changes in a government should come about to which he is accredited, then would he state that before the broad public.

Q The Prosecution have referred to a report to Hitler, dated 12 May, 1935 and they have submitted it as proof for the fact that you wanted to tempt Schusehnigg into a government collaborating with the National Socialists -- which is document U.S.A. Exhibit 64. In my document book it is once more contained under document number 66 on page 159 and 160.

What, Mr. Witness, were your real intentions?

A I must be a little more explicit with reference to this document. This report was written eight months after Dollfuss' assassination, that is to say during a time of which even the Prosecution themselves have said that during the first two years it had been my instructions to remain entirely passive. When this report was written we had news that Starhemberg was pursuing a policy together with Mussolini which would place serious hurdles in the way of an understanding between Austria and Germany. That is the reason why I am suggesting to Hitler an acute and immediate intervention. And I proposed that Schuschnigg should be played up against the hostile Christian Socialists elements in the country. I suggest that there should be an offer of a final coordination of Austrian and German interests.

This report states that if Germany were to recognize the end of Austria as a state and if it were to undertake that the national opposition in Austria, that is to say the Nazis, are to remain uninfluenced, then that would have to lead to a coalition between those powers.

It would result in the fact that Germany would participate in the Danube agreement, that is to say, a peaceful solution of the entire European situation.

H0158-0068

H0158-0069

Q. Just now you explained that you were pursuing the honest policy of coordinating the interests --

THE PRESIDENT: Dr. Kubuschok, the Tribunal would like to understand more clearly what the defendant means by what he just said.

DR. KUBUSCHOK: I have just been told that the English translation came over extremely badly. Would you suggest, Mr. President, that the defendant repeat the entire answer?

THE PRESIDENT: Yes, most certainly. That is the best way. I think it is very unlikely that the English translation came over badly.

BY DR. KUBUSCHOK:

Q. Mr. Witness, will you please answer once again, but this time more slowly so that the interpreters encounter no difficulties.

A. When this report was written, we had news that Starhemberg-Starhemberg being the chief of the Home Guard - had joined Mussolini in a policy which would in the future mean a fight against any pro-German tendencies in Austria. In order to counter that maneuver of Starhemberg's, I am telling Hitler that he should suggest to Schuschnigg that, instead of coming to a condition with the Home Guard, he should do so with the Christian Socialists, who were not opposed to an understanding between Austria and Germany. In order to cause him, Schuschnigg, to enter into such a coalition, it was porposed that Hitler should offer him one final coordination of Germany's and Austria's interests; in other words, Hitler should tell him that Germany recognizes the independence of Austria and will undertake that in the future she will not intervene in the internal affairs of Austria.

I go on to say to Hitler that if we have brought about such a pacification - meaning friendly terms with Austria -- then we can even join the Danube Pact, this being the combination of the French, Italians, the Czechoslovaks, who were always in favor of the pact of the Danube powers, with the inclusion of Austria.

We in Germany had opposed the policy of those powers in those days because we feared that if Austria were to join a Danube Pact, then this would estrange Germany once and for all. If, on the other hand, we were to be good friends

H0158 - 0070

with Austria and our relations were once more put in order, then we could, as I say here to Hitler, we might and could join this Danube Pact and by this means achieve something most constructive in favor of European pacification.

THE PRESIDENT: You are not forgetting your hopes that you expressed this morning?

DR. KUBUSCHOK:

Q. Just now you said that you were in favor of an honest policy and co-ordination of interests. Is it true that you were influencing Hitler with reference to his Reichstag speech on 31 May 1936 and he should make a statement in favor of Austria's independence?

A. Yes, that is perfectly true, because that statement was the prerequisite for normalizing the conditions and exchanging the views and interest of a revolutionary nature. Our joint policy could only be advanced from Austria. Austria was the country which, in the peace treaty of St. Germain and the protocol in Geneva, had been ordered to remain away from Germany. If Austria, therefore, were to take up the initiative and improve relations with Germany, then it was a prerequisite that we should first recognize its sovereignty.

DR. KUBUSCHOK: May I draw your attention to a mistake in the translation' In the translation of the words spoken by the defendant, it was said "revolutionary character", instead of "evolutionary character".

BY DR. KUBUSCHOK:

Q. Will you please refer to the pact of July 1936.

A. The agreement of July 11 was described by Sir David as a maneuver of deception. It was described as an attempt to get the Austrian government into renewed difficulties, to undermine it by means of introducing pro-German men like Glaise-Horstenau or Foreign Minister Schmidt. This judgment passed upon the pact is entirely incorrect, and I think historically untenable. The examinations here and the statements made by the Austrian Foreign Minister have, in fact, proved it.

The pact was the result of my efforts over two years to re-establish normal relationships between the two brother nations. The agreement was the

H0158-0071

wish of both governments, not only the German government, and Chancellor Schuschnigg admitted that himself. It is contained in a report of mine of 1 September 1936, which deals with a speech made by Schuschnigg before Austrian workers. Why should the Austrian government have concluded this pact -- there was no coercion to conclude it -- unless they themselves had wanted it, unless they themselves had wanted to bring about normal, friendly relations with the German Reich?

It was for that very reason that I had asked Hitler to declare Austria's sovereignty in his Reichstag speech. That agreement was by no means meant to forego all wishes for a later joint getting together, but it recognized Austria's independence to act, Austria's freedom to act. The aim of the joining to the two states was now to be pursued in a proper and evolutionary manner.

This corresponded with the agreement which I had made with Hitler on 20 July. There was a second part of that agreement which had not been published. That second part contained all the elements necessary for a pacification. There was to be an amnesty, and the press relations were to be regulated, and the so-called "1,000 mark bar" was to be lifted, which was a frontier bar imposed upon people travelling into Austria which had been decreed by Hitler. Any German wanting to travel to Austria would have to pay 1,000 marks, and this bar was removed.

On the other side, in this unpublished part of the agreement, Schuschnigg promised that men in his confidence, members of the national opposition, were to be brought in to cooperate in Austria. It appeared to us that the inclusion of the Austrian opposition into the Parliamentary procedure of Austria would have to be a condition for that peaceful solution; in other words, the Party should gradually emerge from its illegal status and become a legal factor.

H0158-0072

Mr. Messersmith, if I may add this, states in his affidavit -- and erroneously -- that Part 2 of this pact or agreement contained a clause that a number of persons who were in the Chancellor's confidence should be called to positions in the Cabinet. That, obviously, is an error of thought on Mr. Messersmith's part, because we were not here concerned with people who had Hitler's confidence, but such person's who had Schuschnigg's confidence. This was an agreement or an arrangement made by Schuschnigg.

Apart from this, Mr. Messersmith says in this connection, with reference to this agreement, that the first penetration of German nationals into the Austrian Government was achieved through the nomination of Dr. Guido Schmidt to the position of Secretary of State for Foreign Affairs. This is utterly incorrect. Dr. Schmidt was an Austrian and he was making Austrian policy. He was representing Austrian interests, which was absolutely natural. At no time did Germany exert any influence to make him, Dr. Schmidt, Foreign Minister.

Looking at it altogether, then, world public opinion regarded this agreement as an instrument of peace and a great step forward. It was left to the prosecution to call it a manoeuver of deception.

DR. KUBUSCHOK: I refer to Erbach's affidavit, document number 96, which, in the English book, is on page 233 and 234. I refer to questions numbers 4 to 7, and questions 12 and 13. They deal with the subject which we have just discussed. That is questions 4 to 7 and questions 12 and 13.

BY DR. KUBUSCHOK:

Q Did you, after the conclusion of the June agreement, consider your mission in Austria as terminated?

A Yes, I considered it as being at an end. That is proved by my application to resign, which I wrote on the 16th of July, 1936, and addressed to Hitler.

DR. KUBUSCHOK: I refer to document number 71, page 165, and I quote the beginning. That is the second document.

"On the 26th of July, 1934, you proposed to the late Field Marshal that I should be sent to Vienna on a temporary mission, for the restoration of normal and friendly relations.

"With the agreement signed on 11 July, the decisive step has been

H0158-0073

taken in this direction."

Then, in a later part of the document, he asks to be recalled, and I go on to quote the last but one paragraph:

"Even though the German question will need very careful and considerate handling in the future too, especially after the incredible difficulties which have gone before, I would like now, at the end of the task you entrusted to me, to lay my office back in your hands."

BY DR. KUBUSCHOK:

Q The prosecution has used your report to Hitler, dated the 1st of September 1936 -- the number is PS-2246 -- and they are accusing you of having remained in contact with the illegal leaders of the Austrian National Socialists, that you had attempted to bring that opposition into the Fatherland Front, and also that you intended to change the Schuschnigg regime.

A In this report which is mentioned I wrote of the progress in normalizing the relations to Germany, which was hindered by the staying power of the Ministry of Security, where the old officials opposed to National Socialism were located, and that therefore changes of personnel were urgent. If, therefore, I used the expression in this report "changes of the regime", then that means, in its proper sense, "changes of personnel". In that connection I go on to say, in the following sentence, that there will be economic negotiations in the near future. This shows quite clearly that with these words we are not concerned with the removal of Schuschnigg's person.

Apart from that, this report speaks of the seriousness of the situation in the Danube theater, and it contains a proposal for a peaceful solution.

If I am accused by the prosecution of having had contacts or having communicated with the Nazi opposition, although the July agreement had excluded any intervention in Austrian affairs, then I must say that I was perfectly entitled to such keeping in touch because I was interested in ascertaining whether and how far Herr von Schuschnigg would keep his promise if he were to bring the National Opposition in for collaboration.

Just how far the Nazi opposition submitted to that agreement of the 11th of July is proved by the statement of Leopold of January 1937, which Mr.

H0158 - 0074

Messersmith has attached to his own affidavit.

DR. KUBUSCHOK: I refer to document number 75, on page 171, which contains this file reference of file note of Leopold's. The document is identical with the appendix, which has the number USA Exhibit 57. There is an error in the English translation. In the fifth last line, on page 1, the word "Anschluss" has been translated by "annexation".

BY DR. KUBUSCHOK:

Q Witness, what do you have to say about Leopold's statement?

A Leopold's proposals show the following:

The leaders of the Austrian Nazis were fully accepting the policy contained in the July agreement. They recognized that in the future the question of the Anschluss would be an internal Austrian affair, which would be solved by the Austrian Government. It was proposed that the solution would be found in an evolutionary manner by the Austrian Government. They were in favor of a solution where, by means of the declaration of sovereignty for Austria, these arguments would, in the future, no longer represent foreign political dangers for the Reich.

That is to say, in other words, that the agreement of July is understood by the Austrian National Socialists and approved of, and that they are prepared to find a legal way, together with the Austrian government.

THE PRESIDENT: The Tribunal will adjourn now.

(An adjournment was taken until 1000 hours, Tuesday, 18 June, 1946)